

(Added Pub. L. 100-702, title X, §1022(1), Nov. 19, 1988, 102 Stat. 4672.)

CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

Sec.	
331.	Judicial Conference of the United States.
332.	Judicial councils of circuits.
333.	Judicial conferences of circuits.
334.	Institutes and joint councils on sentencing.
335.	Judicial Conference of the Court of International Trade.

AMENDMENTS

1986—Pub. L. 99-466, §2(b), Oct. 14, 1986, 100 Stat. 1190, added item 335.

1980—Pub. L. 96-458, §2(d)(2), Oct. 15, 1980, 94 Stat. 2036, inserted “of circuits” in item 332.

1958—Pub. L. 85-752, §2, Aug. 25, 1958, 72 Stat. 845, added item 334.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2109 of this title.

§ 331. Judicial Conference of the United States

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the Conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title.

If the chief judge of any circuit, the chief judge of the Court of International Trade, or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit or any other judge of the Court of International Trade, as the case may be. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference is authorized to exercise the authority provided in section 372(c) of

this title as the Conference, or through a standing committee. If the Conference elects to establish a standing committee, it shall be appointed by the Chief Justice and all petitions for review shall be reviewed by that committee. The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof. The Conference may also prescribe and modify rules for the exercise of the authority provided in section 372(c) of this title. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference or the standing committee established pursuant to this section.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.

The Attorney General shall, upon request of the Chief Justice, report to such Conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

(June 25, 1948, ch. 646, 62 Stat. 902; July 9, 1956, ch. 517, §1(d), 70 Stat. 497; Pub. L. 85-202, Aug. 28, 1957, 71 Stat. 476; Pub. L. 85-513, July 11, 1958, 72 Stat. 356; Pub. L. 87-253, §§1, 2, Sept. 19, 1961, 75 Stat. 521; Pub. L. 95-598, title II, §208, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-458, §4, Oct. 15, 1980, 94 Stat. 2040; Pub. L. 97-164, title I, §111, Apr. 2, 1982, 96 Stat. 29; Pub. L. 99-466, §1, Oct. 14, 1986, 100 Stat. 1190; Pub. L. 100-702, title IV, §402(b), Nov. 19, 1988, 102 Stat. 4650; Pub. L. 104-317, title VI, §601(a), Oct. 19, 1996, 110 Stat. 3857.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §218 (Sept. 14, 1922, ch. 306, §2, 42 Stat. 838; July 5, 1937, ch. 427, 50 Stat. 473).

Provisions as to associate justice acting when Chief Justice is disabled are omitted as unnecessary in view of section 3 of this title giving senior associate justice power to act upon the disability of the Chief Justice.

The provision of section 218 of title 28, U.S.C., 1940 ed., as to traveling expenses is incorporated in section 456 of this title.

Provision as to time and place for holding conference was omitted as unnecessary since the Chief Justice is vested with discretionary power to designate the time and place under the language retained.

The references to “chief judge” are in harmony with other sections of this title. (See Reviser’s Note under section 136 of this title.)

Provision for stated annual reports by the chief judge of the district was omitted as obsolete and unnecessary in view of sections 332 and 333 of this title.

The last paragraph is new and is inserted to authorize the communication to Congress of information which now reaches that body only because incorporated in the annual report of the Attorney General.

Numerous changes were made in phraseology and arrangement.

REFERENCES IN TEXT

Rule 45(c) of the Federal Rules of Civil Procedure, referred to in fourth paragraph, is set out in the Appendix to this title.

AMENDMENTS

1996—Pub. L. 104-317 added second par. and struck out former second par. which read as follows: “The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.”

1988—Pub. L. 100-702 inserted paragraph requiring Judicial Conference review of section 2071 rules prescribed by courts other than Supreme court or district courts for consistency with Federal law.

1986—Pub. L. 99-466, §1(a), inserted “, the chief judge of the Court of International Trade,” and substituted “Conference may” for “conference may” in first par.

Pub. L. 99-466, §1(b), inserted “, the chief judge of the Court of International Trade,” and “or any other judge of the Court of International Trade, as the case may be” in first sentence of third par.

Pub. L. 99-466, §1(c), substituted “Conference” for “conference” in sixth par.

1982—Pub. L. 97-164, in first par., struck out references to the chief judge of the Court of Claims and to the chief judge of the Court of Customs and Patent Appeals in the enumeration of judges which the Chief Justice must summon each year for a conference and, in third par., struck out provision that authorized the Chief Justice to summon an associate judge of the Court of Claims or the Court of Customs and Patent Appeals if the chief judge of either of those courts could not attend.

1980—Pub. L. 96-458, in fourth par., substituted “It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business.” for “and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.”, and inserted provisions relating to exercise of authority under section 372(c) as the Conference or through standing committee, the holding of hearings, taking of testimony, and the issuance of subpoenas pursuant to rule 45(c) of the Federal Rules of Civil Procedure.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy judges, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1961—Pub. L. 87-253 provided for the summoning to the judicial conference of the chief judge of the Court of Customs and Patent Appeals, and if he is unable to attend, for the summoning of an associate judge of such court.

1958—Pub. L. 85-513 inserted paragraph requiring a continuous study of the operation and effect of the general rules of practice and procedure.

1957—Pub. L. 85-202 provided generally in first three paragraphs for the representation of district judges on the Judicial Conference.

1956—Act July 9, 1956, inserted provisions relating to participation of Court of Claims judges.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-466 provided that: “This Act and the amendments made by this Act [enacting section 335 of this title, amending this section and section 569 of this title, renumbering section 873 of this title as 872, and repealing former section 872 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 14, 1986].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 7 of Pub. L. 96-458 provided that: “This Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section 1 of this title] shall become effective on October 1, 1981.”

POLICIES, PROCEDURES, AND METHODOLOGIES USED IN RECOMMENDATION FOR CREATION OF ADDITIONAL FEDERAL JUDGESHIPS; STUDY BY GENERAL ACCOUNTING OFFICE AND REPORT TO CONGRESS

Pub. L. 101-650, title II, §205, Dec. 1, 1990, 104 Stat. 5103, provided that:

“(a) IN GENERAL.—The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies—

“(1) provide an accurate measure of the workload of existing judges;

“(2) are applied consistently to the various circuit courts of appeals and district courts; and

“(3) provide an accurate indicator of the need for additional judgeships.

“(b) REPORT TO CONGRESS.—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act [Dec. 1, 1990], report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used by the Judicial Conference that were reviewed in the report.”

FEDERAL COURTS STUDY COMMITTEE

Title I of Pub. L. 100-702 provided that:

TITLE I—FEDERAL COURTS STUDY COMMITTEE

“SEC. 101. SHORT TITLE.

“This title may be cited as the ‘Federal Courts Study Act’.

“SEC. 102. ESTABLISHMENT AND PURPOSES.

“(a) ESTABLISHMENT.—There is hereby established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal Judiciary (hereafter referred to as the ‘Committee’).

“(b) PURPOSES.—The purposes of the Committee are to—

“(1) examine problems and issues currently facing the courts of the United States;

“(2) develop a long-range plan for the future of the Federal Judiciary, including assessments involving—

“(A) alternative methods of dispute resolution;

“(B) the structure and administration of the Federal court system;

“(C) methods of resolving intracircuit and inter-circuit conflicts in the courts of appeals; and

“(D) the types of disputes resolved by the Federal courts; and

“(3) report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deems advisable.

“SEC. 103. MEMBERSHIP OF THE COMMITTEE.

“(a) APPOINTMENTS.—The Committee shall be composed of fifteen members to be appointed by the Chief Justice of the United States, within ten days after the effective date of this title.

“(b) SELECTION.—The membership of the Committee shall be selected in such a manner as to be representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts. The Chief Justice shall designate one of the members of the Committee to serve as Chairman.

“(c) TERM OF OFFICE.—The Committee members shall serve at the pleasure of the Chief Justice.

“(d) RULES OF PROCEDURE.—Rules of procedure shall be promulgated by vote of a majority of the Committee.

“SEC. 104. POWERS OF THE COMMITTEE.

“(a) HEARINGS.—The Committee or, on the authorization of the Committee, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, as the Committee or any such subcommittee may deem advisable.

“(b) INFORMATION AND ASSISTANCE.—The Administrative Office of the United States Courts, the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Committee, upon request made by the Chairman, such information and assistance as the Committee may reasonably deem necessary to carry out its functions under this title, consistent with other applicable provisions of law governing the release of such information.

“(c) PERSONNEL.—(1) Subject to such rules and regulations as may be adopted by the Committee, the Director of the Administrative Office shall furnish to the Committee necessary staff and technical assistance in response to needs specified.

“(2) [Amended section 5108(c)(1) of Title 5, Government Organization and Employees.]

“(d) ADVISORY PANELS.—The Committee is authorized, for the purpose of carrying out its functions and duties pursuant to the provisions of this title, to establish advisory panels consisting of Committee members or members of the public. Such panels shall be established to provide expertise and assistance in specific areas, as the Committee deems necessary.

“SEC. 105. FUNCTIONS AND DUTIES.

“The Committee shall—

“(1) make a complete study of the courts of the United States and of the several States and transmit a report to the President, the Chief Justice of the United States, the Congress, the Judicial Conference of the United States, the Conference of Chief Justices, and the State Justice Institute on such study, within fifteen months after the effective date of this title;

“(2) recommend revisions to be made to laws of the United States as the Committee, on the basis of such study, deems advisable;

“(3) develop a long-range plan for the judicial system; and

“(4) make such other recommendations and conclusions it deems advisable.

“SEC. 106. COMPENSATION OF MEMBERS.

“(a) EMPLOYEES OF THE GOVERNMENT.—A member of the Committee who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Committee, not to exceed the maximum amounts authorized under section 456 of title 28.

“(b) PRIVATE SECTOR.—A member of the Committee who is from the private sector shall receive \$200 per diem for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Committee, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, not to exceed the maximum amounts authorized under section 456 of title 28.

“SEC. 107. EXPIRATION OF THE COMMITTEE.

“The Committee shall cease to exist on the date 60 days after it transmits the report pursuant to section 105.

“SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

“To carry out the purposes of this title there are authorized to be appropriated \$300,000 for each of the fiscal years 1989 and 1990.

“SEC. 109. EFFECTIVE DATE.

“This title shall become effective on January 1, 1989.”

AUTHORIZATION OF APPROPRIATIONS

Section 6 of Pub. L. 96-458 provided that: “There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section 1 of this title].”

CROSS REFERENCES

Annuities to widows and surviving dependent children of judges, review by Judicial Conference of the United States of questions of dependency and disability, see section 376 of this title.

Pretermission of regular term or session of court of appeals with consent of Judicial Conference of the United States, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 372 of this title; title 42 section 10608.

§ 332. Judicial councils of circuits

(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such num-

ber is determined by majority vote of all such judges of the circuit in regular active service.

(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

(3) Only circuit and district judges in regular active service shall serve as members of the council.

(4) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

(5) In the event of the death, resignation, retirement, or disability of a member of the council, a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

(6) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the semiannual reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit. Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public. Each council is authorized to hold hearings, to take sworn testimony, and to issue subpoenas and subpoenas duces tecum. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or agency thereof.

(2) All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council. In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.

(3) Unless an impediment to the administration of justice is involved, regular business of the courts need not be referred to the council.

(4) Each judicial council shall periodically review the rules which are prescribed under sec-

tion 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.

(e) The judicial council of each circuit may appoint a circuit executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties delegated to the circuit executive of each circuit may include but need not be limited to:

(1) Exercising administrative control of all nonjudicial activities of the court of appeals of the circuit in which he is appointed.

(2) Administering the personnel system of the court of appeals of the circuit.

(3) Administering the budget of the court of appeals of the circuit.

(4) Maintaining a modern accounting system.

(5) Establishing and maintaining property control records and undertaking a space management program.

(6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference.

(7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts.

(8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshal's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.

(9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.

(10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit.

All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit.

(f)(1) Each circuit executive shall be paid at a salary to be established by the Judicial Conference of the United States not to exceed the annual rate of level IV of the Executive Schedule pay rates under section 5315 of title 5.

(2) The circuit executive shall serve at the pleasure of the judicial council of the circuit.

(3) The circuit executive may appoint, with the approval of the council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

(4) The circuit executive and his staff shall be deemed to be officers and employees of the judi-

cial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code.

(g) No later than January 31 of each year, each judicial council shall submit a report to the Administrative Office of the United States Courts on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability.

(June 25, 1948, ch. 646, 62 Stat. 902; Pub. L. 88-176, § 3, Nov. 13, 1963, 77 Stat. 331; Pub. L. 91-647, Jan. 5, 1971, 84 Stat. 1907; Pub. L. 95-598, title II, § 209, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96-458, § 2(a)-(d)(1), Oct. 15, 1980, 94 Stat. 2035, 2036; Pub. L. 100-459, title IV, § 407, Oct. 1, 1988, 102 Stat. 2213; Pub. L. 100-702, title IV, § 403(a)(2), (b), title X, §§ 1018, 1020(a)(1), Nov. 19, 1988, 102 Stat. 4651, 4670, 4671; Pub. L. 101-650, title III, §§ 323, 325(b)(1), title IV, § 403, Dec. 1, 1990, 104 Stat. 5120, 5121, 5124; Pub. L. 102-198, § 1, Dec. 9, 1991, 105 Stat. 1623; Pub. L. 104-317, title II, § 208, Oct. 19, 1996, 110 Stat. 3851.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 448 (Mar. 3, 1911, ch. 231, § 306, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

The final sentence of section 448 of title 28, U.S.C., 1940 ed., excepting from the operation of said section the provisions of existing law as to assignment of district judges outside their districts, was omitted as surplusage, since there is nothing in this section in conflict with section 292 of this title providing for such assignments.

The requirement for attendance of circuit judges, unless excused by the chief judge, was included in conformity with a similar provision of section 331 of this title.

Changes in phraseology were made.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

AMENDMENTS

1996—Subsec. (g). Pub. L. 104-317 added subsec. (g).

1991—Subsec. (a)(1). Pub. L. 102-198 substituted “such number” for “such member” and “service” for “services”.

1990—Subsec. (a)(1). Pub. L. 101-650, § 323(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he may designate, a meeting of the judicial council of the circuit, consisting of—

“(A) the chief judge of the circuit, who shall preside;

“(B) that number of circuit judges fixed by majority vote of all such judges in regular active service; and

“(C) that number of district judges of the circuit fixed by majority vote of all circuit judges in regular active service, except that—

“(i) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is less than six, the number of district judges fixed in accordance with this subparagraph shall be no less than two; and

“(ii) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is

six or more, the number of district judges fixed in accordance with this subparagraph shall be no less than three.”

Subsec. (a)(3) to (7). Pub. L. 101-650, § 323(b), redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which read as follows: “The number of circuit and district judges fixed in accordance with paragraphs (1)(B) and (1)(C) of this subsection shall be set by order of the court of appeals for the circuit no less than six months prior to a scheduled meeting of the council so constituted.”

Subsec. (d)(2). Pub. L. 101-650, § 403, inserted at end “In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.”

Subsec. (f)(1). Pub. L. 101-650, § 325(b)(1), substituted “under section 5315 of title 5” for “(5 U.S.C. 5316)”.

1988—Subsec. (c). Pub. L. 100-702, § 1020(a)(1), substituted “semiannual” for “semi-annually”.

Subsec. (d)(1). Pub. L. 100-702, § 403(b), inserted after first sentence “Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.”

Subsec. (d)(4). Pub. L. 100-702, § 403(a)(2), added par. (4).

Subsec. (e). Pub. L. 100-702, § 1018(1), substituted “executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training.” for “executive from among persons who shall be certified by the Board of Certification.” in first sentence.

Subsec. (f). Pub. L. 100-702, § 1018(2), designated last four undesignated pars. as pars. (1) to (4), respectively, and struck out former first undesignated par. which related to establishment, functions, and staffing of Board of Certification and setting standards for certification as qualified to be circuit executive.

Pub. L. 100-459 substituted “level IV” for “level V”.

1980—Pub. L. 96-458, § 2(d)(1), substituted “Judicial councils of circuits” for “Judicial councils” in section catchline.

Subsec. (a). Pub. L. 96-458, § 2(a), in par. (1) designated existing provisions as introductory provision and in such introductory provision substituted “each judicial circuit” for “each circuit”, substituted “a meeting of the judicial council of the circuit, consisting of—” for “a council of the circuit judges for the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.”, and added subpars. (A) to (C) and pars. (2) to (7).

Subsec. (c). Pub. L. 96-458, § 2(b), substituted “semi-annually” for “quarterly”.

Subsec. (d). Pub. L. 96-458, § 2(c), amended subsec. (d) generally, designating existing provisions as par. (1), inserting “and appropriate” after “all necessary”, substituting “justice within its circuit” for “the business of the courts within its circuit”, striking out “The district judges shall promptly carry into effect all orders of the judicial council.” after “within its circuit.”, inserting provisions relating to the holding of hearings, taking of testimony, the issuance of subpoenas and service thereof under the Federal Rules of Civil Procedure, and adding pars. (2) and (3).

1978—Subsec. (d). Pub. L. 95-598 directed the amendment of subsec. (d) by inserting “and bankruptcy

judges” after “The district judges”, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1971—Pub. L. 91-647 designated existing four paragraphs as subsecs. (a), (b), (c), and (d), respectively, and added subsecs. (e) and (f).

1963—Pub. L. 88-176 inserted “regular” before “active service” in first sentence.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 407 of Pub. L. 101-650 provided that: “The amendments made by this subtitle [subtitle I (§§ 402-407) of title IV of Pub. L. 101-650, amending this section, sections 372, 453, and 2077 of this title, and provisions set out in the Appendix to Title 5, Government Organization and Employees] shall take effect 90 days after the date of the enactment of this Act [Dec. 1, 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 403(a)(2), (b) of Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-458 effective Oct. 1, 1981, see section 7 of Pub. L. 96-458, set out as a note under section 331 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 372 of this title.

§ 333. Judicial conferences of circuits

The chief judge of each circuit may summon biennially, and may summon annually, the circuit, district, and bankruptcy judges of the circuit, in active service, to a conference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He may preside at such conference, which shall be known as the Judicial Conference of the circuit. The judges of the District Court of Guam, the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands may also be summoned biennially, and may be summoned annually, to the conferences of their respective circuits.

Every judge summoned may attend.

The court of appeals for each circuit shall provide by its rules for representation and active participation at such conference by members of the bar of such circuit.

(June 25, 1948, ch. 646, 62 Stat. 903; Dec. 29, 1950, ch. 1185, 64 Stat. 1128; Oct. 31, 1951, ch. 655, § 38, 65 Stat. 723; Pub. L. 85-508, § 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 95-598, title II, § 210, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 101-650, title III, § 320, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 104-134, title I, § 101(a) [title III, § 305], Apr. 26, 1996, 110 Stat. 1321, 1321-36; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 449, 450 (Mar. 3, 1911, ch. 231, §§ 307, 308, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

Section consolidates parts of sections 449 and 450 of title 28, U.S.C., 1940 ed.

Said section 450 contained definitions of “courts” and “continental United States,” and directions that sections 444-450 of title 28, U.S.C., 1940 ed., relating to the

administration of United States courts, should apply to the courts of appeals, the United States Court of Appeals for the District of Columbia and to the several enumerated district courts of the United States, including those in the Territories and Possessions as well as the Court of Claims, Court of Customs and Patent Appeals, and Customs Court. It also provided that the Chief Justice and associate justices of the Court of Appeals for the District of Columbia should have the powers of the senior judge and circuit judges, respectively, of a circuit court of appeals.

The revised section omits, as surplusage, the definition of “continental United States.” Other provisions of section 450 of title 28, U.S.C., 1940 ed., referred to were omitted as unnecessary in view of section 604 of this title which provides for the powers and duties of the Director of the Administrative Office of the United States Courts. Remaining provisions of said section 450 are incorporated in said section 604 and section 610 of this title.

The provision as to travel and subsistence which was contained in said section 449 of title 28, U.S.C., 1940 ed., is incorporated in section 456 of this title.

AMENDMENTS

1996—Pub. L. 104-134, § 101(a) [title III, § 305(1)], in first par. substituted “may” for “shall” before “summon biennially”, “preside at such”, and “also be summoned”.

Pub. L. 104-134, § 101(a) [title III, § 305(2)], in second par. substituted “may” for “shall” before “attend” and struck out “, and unless excused by the chief judge, shall remain throughout the conference” before period at end.

1990—Pub. L. 101-650 substituted “biennially, and may summon annually,” for “annually”, struck out “the United States District Court for the District of the Canal Zone,” after “The judges of”, and substituted “the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,” for “and the District Court of the Virgin Islands shall also be summoned annually”.

1978—Pub. L. 95-598 inserted reference to bankruptcy judges.

1958—Pub. L. 85-508 struck out provisions which required judge of District Court for Territory of Alaska to be summoned annually to the conference of his circuit. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1951—Act Oct. 31, 1951, inserted reference to judge of District Court of Guam in first par.

1950—Act Dec., 29, 1950, provided for the presence of judges of District Courts of Alaska, Canal Zone, and the Virgin Islands at annual conferences within their respective circuits.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the “transition period”, being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96-70,

title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

§ 334. Institutes and joint councils on sentencing

(a) In the interest of uniformity in sentencing procedures, there is hereby authorized to be established under the auspices of the Judicial Conference of the United States, institutes and joint councils on sentencing. The Attorney General and/or the chief judge of each circuit may at any time request, through the Director of the Administrative Office of the United States Courts, the Judicial Conference to convene such institutes and joint councils for the purpose of studying, discussing, and formulating the objectives, policies, standards, and criteria for sentencing those convicted of crimes and offenses in the courts of the United States. The agenda of the institutes and joint councils may include but shall not be limited to: (1) The development of standards for the content and utilization of presentence reports; (2) the establishment of factors to be used in selecting cases for special study and observation in prescribed diagnostic clinics; (3) the determination of the importance of psychiatric, emotional, sociological and physiological factors involved in crime and their bearing upon sentences; (4) the discussion of special sentencing problems in unusual cases such as treason, violation of public trust, subversion, or involving abnormal sex behavior, addiction to drugs or alcohol, and mental or physical handicaps; (5) the formulation of sentencing principles and criteria which will assist in promoting the equitable administration of the criminal laws of the United States.

(b) After the Judicial Conference has approved the time, place, participants, agenda, and other arrangements for such institutes and joint councils, the chief judge of each circuit is authorized to invite the attendance of district judges under conditions which he thinks proper and which will not unduly delay the work of the courts.

(c) The Attorney General is authorized to select and direct the attendance at such institutes and meetings of United States attorneys and other officials of the Department of Justice and may invite the participation of other interested Federal officers. He may also invite specialists in sentencing methods, criminologists, psychiatrists, penologists, and others to participate in the proceedings.

(d) The expenses of attendance of judges shall be paid from applicable appropriations for the judiciary of the United States. The expenses connected with the preparation of the plans and agenda for the conference and for the travel and other expenses incident to the attendance of officials and other participants invited by the Attorney General shall be paid from applicable appropriations of the Department of Justice.

(Added Pub. L. 85-752, § 1, Aug. 25, 1958, 72 Stat. 845.)

SENTENCING PROCEDURES

Section 7 of Pub. L. 85-752 provided that: "This Act [enacting this section, sections 4208 and 4209 of Title 18, Crimes and Criminal Procedure, and provisions set out as a note under section 4208 of Title 18] does not apply to any offense for which there is provided a mandatory penalty."

§ 335. Judicial Conference of the Court of International Trade

(a) The chief judge of the Court of International Trade is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

(b) The Court of International Trade shall provide by its rules for representation and active participation at such conference by members of the bar.

(Added Pub. L. 99-466, § 2(a), Oct. 14, 1986, 100 Stat. 1190.)

EFFECTIVE DATE

Section effective 60 days after Oct. 14, 1986, see section 4 of Pub. L. 99-466, set out as an Effective Date of 1986 Amendment note under section 331 of this title.

CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

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| Sec.
371. | Retirement on salary; retirement in senior status. |
| 372. | Retirement for disability; substitute judge on failure to retire; judicial discipline. |
| 373. | Judges in Territories and Possessions. ¹ |
| 374. | Residence of retired judges; official station. |
| 375. | Recall of certain judges and magistrates. |
| 376. | Annuities for survivors of certain judicial officials of the United States. |
| 377. | Retirement of bankruptcy judges and magistrates. |

AMENDMENTS

1988—Pub. L. 100-702, title X, § 1020(a)(9), Nov. 19, 1988, 102 Stat. 4672, substituted "Annuities for survivors of certain judicial officials of the United States" for "Annuities to widows and surviving dependent children of justices and judges of the United States" in item 376.

Pub. L. 100-659, § 2(b), Nov. 15, 1988, 102 Stat. 3916, added item 377.

1986—Pub. L. 99-651, title II, § 201(b)(2), Nov. 14, 1986, 100 Stat. 3648, amended item 375 generally.

1984—Pub. L. 98-353, title II, § 204(b), July 10, 1984, 98 Stat. 350, substituted "Retirement on salary; retirement in senior status" for "Resignation or retirement for age" in item 371.

1980—Pub. L. 96-458, § 3(c), Oct. 15, 1980, 94 Stat. 2040, inserted reference to "judicial discipline" in item 372.

1972—Pub. L. 92-397, § 3(a), (b), Aug. 22, 1972, 86 Stat. 579, substituted "JUSTICES AND JUDGES" for "JUDGES" in chapter heading, and substituted "justices and judges of the United States" for "judges" in item 376.

1959—Pub. L. 86-312, § 2, Sept. 21, 1959, 73 Stat. 587, inserted ";; official station" in item 374.

1956—Act Aug. 3, 1956, ch. 944, § 1(a), 70 Stat. 1021, substituted "Annuities to widows of justices" for "Annuities to widows on the Chief Justice and Associate Justices of the Supreme Court of the United States" in item 375 and added item 376.

1954—Act Aug. 28, 1954, ch. 1053, § 2, 68 Stat. 918, added item 375.

Act Feb. 10, 1954, ch. 6, § 4(b), 68 Stat. 13, transferred ";; substitute judge on failure to retire" from item 371 to item 372.

CROSS REFERENCES

Tax Court Judges, retirement, see section 7447 of Title 26, Internal Revenue Code.

¹ Section catchline amended by Pub. L. 99-396 without corresponding amendment of analysis.